

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

J. ROBERT KILLIAN,

Plaintiff,

v.

CITY OF MONTEREY, et al,

Defendants.

Case No.: C 12-5418 PSG

**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS**

On November 28, 2012, Defendants City of Monterey, et al (“Defendants”) moved to dismiss one claim and one prayer for damages from the complaint filed by Plaintiff J. Robert Killian (“Killian”).¹ Defendants sought dismissal of a claim brought pursuant to 42 U.S. C. § 12132 against the individually named defendants on the grounds that § 12132 permits causes of action only against municipalities. Defendants also sought dismissal of Killian’s pursuit of punitive damages from the City of Monterey pursuant to 42 U.S.C. § 1983 and Section 202 of the American with Disabilities Act (“ADA”) on the grounds that neither § 1983 nor Section 202 of the ADA permit such a punitive damages request. Killian does not oppose dismissing these limited claims.²

¹ See Docket No. 7.

² See Docket No. 9.

ORDER

1 In light of Killian's non-opposition, the court GRANTS Defendants' request to dismiss the
2 42 U.S.C. § 12132 claim against the individually-named defendants and the punitive damages
3 claims pursuant to 42 U.S.C. § 1983 and Section 202 of the ADA against the City of Monterey.

4 **IT IS SO ORDERED.**

5 Dated: December 19, 2012

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8 PAUL S. GREWAL
9 United States Magistrate Judge
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United States District Court
For the Northern District of California

ORDER